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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,894	07/16/2002	Kent Stalhandske	20459/0351	8950

7590

10/08/2003

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EXAMINER

JOHNSON, STEPHEN

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 10/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,894

Applicant(s)

STALHANDSKE ET AL.

Examiner

Stephen M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-37 is/are pending in the application.
- 4a) Of the above claim(s) 28,29,34 and 35 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30-33 is/are allowed.
- 6) ☒ Claim(s) 21,23-25 and 27 is/are rejected.
- 7) ☒ Claim(s) 22,26,36 and 37 is/are objected to.
- 8) ☒ Claim(s) 21-37 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 05 May 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Applicant's election with traverse of species B (figs. 3 and 4) in Paper No. 11 is acknowledged. The traversal is on the ground(s) that this application should be governed by the PCT standards of Unity of Invention. This has been done as listed below (see MPEP 1875.01 and form paragraph 18.17 directed to Lack of Unity and Species).

2. The claims are deemed to correspond to the species listed previously in the following manner:

Claims 28-29 are directed to the species illustrated in fig. 2.

Claims 30-33 are directed to the species illustrated in figs. 3-4.

Claims 34-35 are directed to the species illustrated in figs. 5-7.

The following claim(s) are generic: Claims 21-27 and 36-37.

Since the generic claims or linking claims from which claims 28-29 and 34-35 depend lack novelty as well as being obvious (see paragraphs 4-8 below), lack of unity of invention is appropriate and remains (see 37 CFR 1.488 (c); MPEP 1875).

This grounds is not found persuasive for the reasons given above.

The requirement is still deemed proper and is therefore made FINAL.

Claims 28-29 and 34-35 are withdrawn from consideration as being directed to non-elected species. Claims 21-27, 30-33, and 36-37 read on the elected species or are generic to the species and an action on these claims follows.

3. Claims 23-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 23, the phrase "said accumulating energy" lacks an antecedent. In claim

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24, the phrases “the loading operation” and “the energy accumulator” lack antecedents.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 21, 25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Sullivan et al..

Sullivan et al. disclose a flick ramming method and associated apparatus comprising:

- a) an electrical motor with associated rotational acceleration; 96
- b) mechanical conversion means; 88, 82
- c) a rammer; and 74
- d) said rammer apply a linear force. see figs. 5-7

Applicant’s arguments are addressed as follows. It is argued that not all of the claim limitations are present in Sullivan et al.. Listed above is the specific location of each claim element.

6. Claims 21, 25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Lawrence et al..

Lawrence et al. disclose a flick ramming method and associated apparatus comprising:

- a) an electrical motor with associated rotational acceleration; 106
- b) mechanical conversion means; col. 5, line 59-65

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- c) a rammer; and 130, 132
- d) said rammer apply a linear force. see fig. 13

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 21, 25, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tellander et al. in view of Andersson et al..

Tellander et al. disclose a flick ramming method and associated apparatus comprising:

- a) a motor with associated rotational acceleration; 20
- b) mechanical conversion means; col. 3, lines 3-49
- c) a rammer; and 28
- d) said rammer apply a linear force. see fig. 4

Tellander et al. apply as recited above. However, undisclosed is a motor that is an electrical motor. Andersson et al. teach a ram motor that is an electrical motor 48. Applicant is substituting one type of motor for another type of motor in an analogous art setting as explicitly encouraged by both the primary and secondary references (see col. 3, lines 47-49 of Tellander et al. and col. 5, lines 45-57 of Andersson et al.). It would have been obvious to one of ordinary skill in this art at the time of the invention to apply the teachings of Andersson et al. to the Tellander et al. disclosure and have a ram motor that is a different type of motor.

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9. Claims 23-24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. Claims 22, 26, and 36-37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 30-33 are allowed.

12. Claims 28-29 and 34-35

13. Applicant's arguments filed 5/6/2003, with regard to Sullivan et al., have been fully considered but they are not persuasive. These arguments have been addressed in the preceding paragraphs of this Office action.

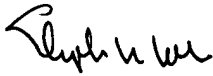
14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158. The examiner can normally be reached on Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326. The fax phone number for after final communications is (703) 872-9327.



STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ